

## § 35.760

319(b)(2)(C) of the Act and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navigable waters or watersheds within the jurisdiction of the Tribe which were identified under section 319(a)(1)(A) of the Act resulting from implementation of the management program.

(c) No funds to carry out ground-water protection activities under section 319(i) of the Act will be awarded to an Indian Tribe unless:

(1) The Regional Administrator determines that the Tribe meets the requirements for treatment as a State in accordance with 40 CFR 130.6(d) and 130.15; and

(2) The Tribe agrees to provide a matching share in accordance with 40 CFR 35.760.

(d) The Regional Administrator will not give a nonpoint source management continuation award to any Indian Tribe unless the Tribe shows satisfactory progress in meeting its negotiated milestones and goals.

[54 FR 14359, Apr. 11, 1989, as amended at 59 FR 13817, Mar. 23, 1994]

### § 35.760 Maximum Federal share.

(a) The Regional Administrator may provide up to 100 percent of approved work program costs for the development of a nonpoint source management program.

(b) Except as provided in paragraph (c) or (d) of this section, the Regional Administrator may provide to an Indian Tribe up to 60 percent of approved nonpoint source management implementation program costs, and 50 percent of approved ground-water protection program costs, on condition that the non-Federal share is provided from non-Federal sources.

(c) The Regional Administrator may increase the maximum Federal shares upon application and demonstration by the Tribe that it does not have adequate funds (including Federal funds authorized by statute to be used for matching purposes, tribal funds or in-kind contributions) to meet the required match. In no case shall the Federal share be greater than 90 percent.

(d) In any fiscal year, the amount of assistance awarded under section 319 of

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the Act to any one Indian Tribe treated as a State shall not exceed 15 percent of the section 319(h) reserve for Tribes established under § 35.115(e).

(e) In any fiscal year the amount of assistance awarded to any one Indian Tribe treated as a State under section 319(i), from funds appropriated under section 319(j), shall not exceed \$150,000.

[54 FR 14359, Apr. 11, 1989]

### Subparts B–D [Reserved]

### Subpart E—Grants for Construction of Treatment Works—Clean Water Act

AUTHORITY: Secs. 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 217, 304(d)(3), 313, 501, 502, 511, and 516(b) of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

SOURCE: 43 FR 44049, Sept. 27, 1978, unless otherwise noted.

#### § 35.900 Purpose.

(a) This subpart supplements the EPA general grant regulations and procedures (part 30 of this chapter) and establishes policies and procedures for grants to assist in the construction of waste treatment works in compliance with the Clean Water Act.

(b) A number of provisions of this subpart which contained transition dates preceding October 1, 1978, have been modified to delete those dates. However, the earlier requirements remain applicable to grants awarded when those provisions were in effect. The transition provisions in former §§ 35.905–4, 35.917, and 35.925–18 remain applicable to certain grants awarded through March 31, 1981.

(c) Technical and guidance publications (MCD series) concerning this program which are issued by EPA may be ordered from: General Services Administration (8FFS), Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, Colo. 80225. In order to expedite processing of requests, persons desiring to obtain these publications should request a copy of EPA form 7500–21 (the order form listing all available publications), from

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EPA Headquarters, Municipal Construction Division (WH-547) or from any regional office of EPA.

### § 35.901 Program policy.

The primary purpose of Federal grant assistance available under this subpart is to assist municipalities in meeting enforceable requirements of the Act, particularly, applicable national pollution discharge elimination system (NPDES) permit requirements. The Regional Administrator and States are authorized and encouraged to administer this grant program in a manner which will most effectively achieve the enforceable requirements of the Act.

### § 35.903 Summary of construction grant program.

(a) The construction of federally financed waste treatment works is generally accomplished in three steps: Step 1, facilities plans and related elements; step 2, preparation of construction drawings and specifications; and step 3, building of a treatment works.

(b) The Regional Administrator may award grant assistance for a step 1, step 2, or step 3 project, or, as authorized by § 35.909, for a project involving a combination of step 2 and step 3 (step 2=3 grant). For a step 1, step 2, or step 3 grant award, a "project" may consist of an entire step or any "treatment works segment" (see § 35.905) of construction within a step. In the case of step 2=3 grant awards, a project must consist of all associated step 2 and step 3 work; segmenting is not permitted.

(c) Grants are awarded from State allocations (see § 35.910 *et seq.*) under the Act. No grant assistance may be awarded unless priority for a project has been determined in accordance with an approved State priority system under § 35.915. The State is responsible for determining the amount and timing of Federal assistance to each municipality for which treatment works funding is needed.

(d) An applicant will initially define the scope of a project. The State may revise this initial project scope when priority for the project is established. The Regional Administrator will make the final determination of project scope when grant assistance is awarded (see § 35.930-4).

(e) For each proposed grant, an applicant must first submit his application to the State agency. The basic grant application must meet the requirements for the project in § 35.920-3. If grant assistance for subsequent related projects is necessary, the grantee shall make submissions in the form of amendments to the basic application. The State agency will forward to the appropriate EPA Regional Administrator complete project applications or amendments to them for which the State agency has determined priority. The grant will consist of the grant agreement resulting from the basic application and grant amendments awarded for subsequent related projects.

(f) Generally, grant assistance for projects involving step 2 or 3 will not be awarded unless the Regional Administrator first determines that the facilities planning requirements of §§ 35.917 to 35.917-9 of this subpart have been met. Facilities planning may not be initiated prior to approval of a step 1 grant or written approval of a "plan of study" accompanied by a reservation of funds (see § 35.925-18 and definition of "construction" in § 35.905).

(g) If initiation of step 1, 2, or 3 construction (see definition of "construction" in § 35.905) occurs before grant award, costs incurred before the approved date of initiation of construction will not be paid and award will not be made except under the circumstances in § 35.925-18.

(h) The Regional Administrator may not award grant assistance unless the application meets the requirements of § 35.920-3 and he has made the determinations required by § 35.925 *et seq.*

(i) A grant or grant amendment awarded for a project under this subpart shall constitute a contractual obligation of the United States to pay the Federal share of allowable project costs up to the amount approved in the grant agreement (including amendments) in accordance with § 35.930-6. However, this obligation is subject to the grantee's compliance with the conditions of the grant (see § 35.935 *et seq.*) and other applicable requirements of this subpart.

(j) Sections 35.937-10, 35.938-6 and 35.945 authorize prompt payment for